

**Proposed Substitute  
Bill No. 454**

LCO No. 3523

**AN ACT CONCERNING AUTOMATIC ERASURE OF CRIMINAL  
RECORDS AND BAIL FOR PERSONS CHARGED WITH  
MISDEMEANOR DRUG POSSESSION.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-142a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) Whenever in any criminal case, on or after October 1, 1969, the  
4 accused, by a final judgment, is found not guilty of the charge or the  
5 charge is dismissed, or the charge is dropped prior to arraignment or  
6 the accused is released without being charged due to a false arrest due  
7 to mistaken identity, all police and court records and records of any  
8 state's attorney pertaining to such charge shall be automatically erased  
9 (1) immediately upon the dismissal of a charge or if the accused is  
10 released without being charged due to a false arrest, (2) upon the  
11 expiration of the time to file a writ of error or take an appeal, if an  
12 appeal is not taken, or (3) upon final determination of the appeal  
13 sustaining a finding of not guilty or a dismissal, if an appeal is taken,  
14 as applicable. Nothing in this subsection shall require the erasure of  
15 any record pertaining to a charge for which the defendant was found  
16 not guilty by reason of mental disease or defect or guilty but not  
17 criminally responsible by reason of mental disease or defect.

18 (b) Whenever in any criminal case prior to October 1, 1969, the  
19 accused, by a final judgment, was found not guilty of the charge or the  
20 charge was dismissed, all police and court records and records of the  
21 state's or prosecuting attorney or the prosecuting grand juror  
22 pertaining to such charge shall be erased by operation of law and the  
23 clerk or any person charged with the retention and control of such  
24 records shall not disclose to anyone their existence or any information  
25 pertaining to any charge so erased; provided nothing in this subsection  
26 shall prohibit the arrested person or any one of his heirs from filing a  
27 petition for erasure with the court granting such not guilty judgment  
28 or dismissal, or, where the matter had been before a municipal court, a  
29 trial justice, the Circuit Court or the Court of Common Pleas with the  
30 records center of the Judicial Department and thereupon all police and  
31 court records and records of the state's attorney, prosecuting attorney  
32 or prosecuting grand juror pertaining to such charge shall be erased.  
33 Nothing in this subsection shall require the erasure of any record  
34 pertaining to a charge for which the defendant was found not guilty by  
35 reason of mental disease or defect.

36 (c) (1) Whenever any charge in a criminal case has been nolle in the  
37 Superior Court, or in the Court of Common Pleas, if at least thirteen  
38 months have elapsed since such nolle, all police and court records and  
39 records of the state's or prosecuting attorney or the prosecuting grand  
40 juror pertaining to such charge shall be automatically erased, except  
41 that in cases of nolle entered in the Superior Court, Court of Common  
42 Pleas, Circuit Court, municipal court or by a justice of the peace prior  
43 to April 1, 1972, such records shall be deemed erased by operation of  
44 law and the clerk or the person charged with the retention and control  
45 of such records shall not disclose to anyone their existence or any  
46 information pertaining to any charge so erased, provided nothing in  
47 this subsection shall prohibit the arrested person or any one of his  
48 heirs from filing a petition to the court or to the records center of the  
49 Judicial Department, as the case may be, to have such records erased,  
50 in which case such records shall be erased.

51 (2) Whenever any charge in a criminal case has been continued at

52 the request of the prosecuting attorney, and a period of thirteen  
53 months has elapsed since the granting of such continuance during  
54 which period there has been no prosecution or other disposition of the  
55 matter, the charge shall be nolledd upon motion of the arrested person  
56 and [such erasure may thereafter be effected or a petition filed  
57 therefor, as the case may be, as provided in this subsection for nolledd  
58 cases] if such motion is granted, all police and court records and  
59 records of any state's attorney pertaining to such charge shall be  
60 automatically erased.

61 (d) (1) Whenever prior to October 1, 1974, any person who has been  
62 convicted of an offense in any court of this state has received an  
63 absolute pardon for such offense, such person or any one of his heirs  
64 may, at any time subsequent to such pardon, file a petition with the  
65 superior court at the location in which such conviction was effected, or  
66 with the superior court at the location having custody of the records of  
67 such conviction or with the records center of the Judicial Department if  
68 such conviction was in the Court of Common Pleas, Circuit Court,  
69 municipal court or by a trial justice court, for an order of erasure, and  
70 the Superior Court or records center of the Judicial Department shall  
71 direct all police and court records and records of the state's or  
72 prosecuting attorney pertaining to such case to be erased.

73 (2) Whenever such absolute pardon was received on or after  
74 October 1, 1974, such records shall be erased.

75 (e) (1) The clerk of the court or any person charged with retention  
76 and control of such records in the records center of the Judicial  
77 Department or any law enforcement agency having information  
78 contained in such erased records shall (A) not later than sixty days  
79 after such records are erased, notify the subject of the erased records of  
80 such erasure, and if such erasure was due to the subject's false arrest or  
81 dismissal of charges due to a lack of a finding of probable cause, such  
82 person charged with retention and control of such records shall  
83 destroy any records of fingerprints, photographs or physical  
84 description of the subject of the records or similar records created at

85 the time of such arrest, (B) not disclose to anyone, except the subject of  
86 the record, upon submission pursuant to guidelines prescribed by the  
87 Office of the Chief Court Administrator of satisfactory proof of the  
88 subject's identity, information pertaining to any charge erased under  
89 any provision of this section, and (C) such clerk or person charged  
90 with the retention and control of such records shall forward a notice of  
91 such erasure to any [law enforcement agency] state or federal agency  
92 or any municipality to which he knows information concerning the  
93 arrest has been disseminated and [such disseminated information shall  
94 be erased from the records of such law enforcement agency] any such  
95 state agency or municipality shall immediately erase such records.  
96 Such clerk or such person, as the case may be, shall provide adequate  
97 security measures to safeguard against unauthorized access to or  
98 dissemination of such records or upon the request of the accused cause  
99 the actual physical destruction of such records, except that such clerk  
100 or such person shall not cause the actual physical destruction of such  
101 records until three years have elapsed from the date of the final  
102 disposition of the criminal case to which such records pertain.

103 (2) No fee shall be charged in any court with respect to any petition  
104 under this section.

105 (3) Any person who shall have been the subject of such an erasure  
106 shall be deemed to have never been arrested within the meaning of the  
107 general statutes with respect to the proceedings so erased and may so  
108 swear under oath or otherwise deny the occurrence of such arrest for  
109 any purpose, including, but not limited to, an application for  
110 employment or for a firearm or ammunition permit or certificate  
111 pursuant to title 29 or for the lawful purchase of a firearm or  
112 ammunition.

113 (f) Upon motion properly brought, the court or a judge thereof, if  
114 such court is not in session, may order disclosure of such records (1) to  
115 a defendant in an action for false arrest arising out of the proceedings  
116 so erased, or (2) to the prosecuting attorney and defense counsel in  
117 connection with any perjury charges which the prosecutor alleges may

118 have arisen from the testimony elicited during the trial. Such  
119 disclosure of such records is subject also to any records destruction  
120 program pursuant to which the records may have been destroyed. The  
121 jury charge in connection with erased offenses may be ordered by the  
122 judge for use by the judiciary, provided the names of the accused and  
123 the witnesses are omitted therefrom.

124 (g) The provisions of this section shall not apply to any police or  
125 court records or the records of any state's attorney or prosecuting  
126 attorney with respect to any information or indictment containing  
127 more than one count (1) while the criminal case is pending, or (2) when  
128 the criminal case is disposed of unless and until all counts are entitled  
129 to erasure in accordance with the provisions of this section, except that  
130 when the criminal case is disposed of, electronic records or portions of  
131 electronic records released to the public that reference a charge that  
132 would otherwise be entitled to erasure under this section shall be  
133 erased in accordance with the provisions of this section. Nothing in  
134 this section shall require the erasure of any information contained in  
135 the registry of protective orders established pursuant to section 51-5c.  
136 For the purposes of this subsection, "electronic record" means any  
137 police or court record or the record of any state's attorney or  
138 prosecuting attorney that is an electronic record, as defined in section  
139 1-267, or a computer printout.

140 (h) Any records taken at the time of arrest that include a DNA  
141 sample or any DNA profile created from such sample that are subject  
142 to erasure pursuant to this section, shall be destroyed and expunged  
143 and purged from any system in accordance with the provisions of  
144 section 54-102l.

145 (i) The Court Support Services Division of the Judicial Branch shall  
146 maintain a listing of any person convicted of a misdemeanor violation  
147 of section 21a-279. If any such person has no other arrests during the  
148 five-year period following such a conviction and is not known to have  
149 used illegal drugs during said period, the records of such conviction  
150 shall be erased and the person charged with retention and control of

151 such records in the records center of the Judicial Department or any  
152 law enforcement agency having information contained in such erased  
153 records shall notify the person who is the subject of such records of  
154 such erasure.

155 (j) For the purposes of this section, "court records" shall not include  
156 a record or transcript of the proceedings made or prepared by an  
157 official court reporter, assistant court reporter or monitor.

158 Sec. 2. Subsection (a) of section 54-64a of the general statutes is  
159 repealed and the following is substituted in lieu thereof (*Effective*  
160 *October 1, 2016*):

161 (a) (1) Except as provided in subdivision (3) of this subsection and  
162 subsection (b) of this section, when any arrested person is presented  
163 before the Superior Court, said court shall, in bailable offenses,  
164 promptly order the release of such person upon the first of the  
165 following conditions of release found sufficient to reasonably ensure  
166 the appearance of the arrested person in court: (A) Upon his execution  
167 of a written promise to appear without special conditions, (B) upon his  
168 execution of a written promise to appear with nonfinancial conditions,  
169 (C) upon his execution of a bond without surety in no greater amount  
170 than necessary, (D) upon his execution of a bond with surety in no  
171 greater amount than necessary. In addition to or in conjunction with  
172 any of the conditions enumerated in subparagraphs (A) to (D),  
173 inclusive, of this subdivision the court may, when it has reason to  
174 believe that the person is drug-dependent and where necessary,  
175 reasonable and appropriate, order the person to submit to a urinalysis  
176 drug test and to participate in a program of periodic drug testing and  
177 treatment. The results of any such drug test shall not be admissible in  
178 any criminal proceeding concerning such person.

179 (2) The court may, in determining what conditions of release will  
180 reasonably ensure the appearance of the arrested person in court,  
181 consider the following factors: (A) The nature and circumstances of the  
182 offense, (B) such person's record of previous convictions, (C) such  
183 person's past record of appearance in court after being admitted to

184 bail, (D) such person's family ties, (E) such person's employment  
185 record, (F) such person's financial resources, character and mental  
186 condition, and (G) such person's community ties.

187 (3) The court shall release a person charged with no crime other  
188 than a misdemeanor violation of section 21a-279 upon such person's  
189 execution of a written promise to appear without special conditions, or  
190 upon such person's execution of a written promise to appear with  
191 nonfinancial conditions.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	54-142a
Sec. 2	<i>October 1, 2016</i>	54-64a(a)